

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

MARK BOGAN,

Defendant.

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ORDER

99-CR-0091-01  
07-C-348-C

Defendant Mark Bogan has filed a motion pursuant to 28 U.S.C. § 2255, in which he contends that his conviction and sentence are invalid on six different grounds. It is not necessary to determine whether defendant has any basis for his contentions because he has waited too long to file the motion. Defendant was sentenced on May 5, 2000. He appealed from his conviction and sentence without success. The court of appeals affirmed both in an opinion entered on September 25, 2001. Defendant did not petition for a writ of certiorari. Under § 2255, he had one year from the date on which “the judgment of conviction [became] final” in which to bring a post conviction motion. The conviction would have become final 90 days after September 25, 2001, or December 25, 2001. Clay v. United States, 537 U.S. 529-30 (2003) (one-year statute of limitations does not begin to run until

90 days after time for filing petition for writ of certiorari has expired, even if defendant does not file such petition). Therefore, defendant had until December 25, 2001, in which to file a § 2255 motion unless he fits within one of the special circumstances in which the time for filing is extended. However, defendant has not alleged that the government has taken any action to impede his right to move for collateral relief or that the facts supporting his claim could not have been discovered before now. Therefore, I conclude that defendant had only until December 25, 2001, in which to file a § 2255 motion.

ORDER

IT IS ORDERED that defendant Mark Bogan's motion for post conviction relief, filed pursuant to 28 U.S.C. § 2255, is DENIED as untimely.

Entered this 29th day of June, 2007.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge